

APPEAL NO. 162262  
FILED JANUARY 10, 2017

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on September 21, 2016, with the record closing on October 6, 2016, in (city), Texas, with (hearing officer) presiding as hearing officer. The hearing officer resolved the disputed issues by deciding that: (1) the respondent (claimant) reached maximum medical improvement (MMI) on February 1, 2015; (2) the claimant's impairment rating (IR) is nine percent; and (3) the claimant did not have disability from February 2, 2015, and continuing through May 1, 2015, resulting from the (date of injury), compensable injury. We note "Insurance" is misspelled in the carrier information provided in the hearing officer's decision. Additionally, the hearing officer misspelled the street address for the carrier in the carrier information provided in the hearing officer's decision.

The appellant (carrier) appeals the hearing officer's decision, arguing that the hearing officer failed to address the extent-of-injury issue which was before her as a disputed issue at the CCH. The appeal file does not contain a response from the claimant. The hearing officer's determinations that the claimant reached MMI on February 1, 2015; the claimant's IR is nine percent; and the claimant did not have disability from February 2, 2015, and continuing through May 1, 2015, were not appealed and have become final pursuant to Section 410.169.

DECISION

Reversed and remanded.

It was stipulated that on (date of injury), the claimant sustained a compensable injury at least in the form of a left wrist fracture and right ankle strain. The evidence reflects that the claimant was injured when she tripped and fell. The Benefit Review Conference report lists the following as a disputed issue:

Does the (date of injury), compensable injury extend to right foot stress fracture of the calcaneus, left foot Achilles tendon rupture, and synovitis of the right ankle?

The issue was listed in the hearing officer's decision and order as a disputed issue before her to resolve. In the first paragraph of the Decision and Order the hearing officer listed her determination of the extent-of-injury issue. Although the hearing officer discussed the extent conditions at issue in the Discussion portion of her decision, the hearing officer made no findings of fact, conclusions of law, or a decision as to whether

the compensable injury of (date of injury), extends to a right foot stress fracture of the calcaneus, left foot Achilles tendon rupture, and synovitis of the right ankle. Section 410.168 provides that a hearing officer's decision contain findings of fact and conclusions of law, a determination of whether benefits are due, and an award of benefits due. 28 TEX. ADMIN. CODE § 142.16 (Rule 142.16) provides that a hearing officer's decision shall be in writing and include findings of fact, conclusions of law, and a determination of whether benefits are due and if so, an award of benefits due. Because the hearing officer failed to make a determination on the extent-of-injury issue that was properly before her to determine, the hearing officer's decision is reversed as being incomplete. See Appeals Panel Decision (APD) 150510, decided April 21, 2015. Accordingly, we reverse the hearing officer's decision as being incomplete and remand the extent-of-injury issue, "[d]oes the (date of injury), compensable injury extend to right foot stress fracture of the calcaneus, left foot Achilles tendon rupture, and synovitis of the right ankle" to the hearing officer.

### **REMAND INSTRUCTIONS**

On remand the hearing officer is to make findings of fact, conclusions of law, and a determination as to whether the compensable injury of (date of injury), extends to a right foot stress fracture of the calcaneus, left foot Achilles tendon rupture, and synovitis of the right ankle.

Pending resolution of the remand, a final decision has not been made in this case. However, since reversal and remand necessitate the issuance of a new decision and order by the hearing officer, a party who wishes to appeal from such new decision must file a request for review not later than 15 days after the date on which such new decision is received from the Texas Department of Insurance, Division of Workers' Compensation, pursuant to Section 410.202 which was amended June 17, 2001, to exclude Saturdays and Sundays and holidays listed in Section 662.003 of the Texas Government Code in the computation of the 15-day appeal and response periods. See APD 060721, decided June 12, 2006.

The true corporate name of the insurance carrier is **INDEMNITY INSURANCE COMPANY OF NORTH AMERICA** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEM  
1999 BRYAN STREET, SUITE 900  
DALLAS, TEXAS 75201-3136.**

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Margaret L. Turner  
Appeals Judge

CONCUR:

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K. Eugene Kraft  
Appeals Judge

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Carisa Space-Beam  
Appeals Judge